

REMARKS

Claims 1-34, 38-40, 42, 44-60, 62-66 and 68-70 are canceled. Claims 35-37, 41, 43, 61 and 67 are allowed.

Claim Rejections Under 35 U.S.C. § 112

Claims 13, 14 and 65 were rejected under 35 U.S.C. § 112, ¶ 2, as allegedly indefinite. Claims 13, 14 and 65 are canceled with this amendment, rendering the rejection of those claims under 35 U.S.C. § 112 moot.

Claim Rejections Under 35 U.S.C. §§ 102/103

Claims 1-34, 38-40, 42, 44-60, 62-66 and 68-70 are canceled with this amendment, rendering the rejection of those claims under 35 U.S.C. §§ 102/103 moot.

In addition, the Applicant submits that, contrary to the Office's assertion¹, the Volodin et al. reference (Holographic Volume Bragg Gratings Stabilize Laser diode Performance, November 2003) is not "Admitted Prior Art." The Applicant presented the Volodin et al. reference for consideration in an information disclosure statement (IDS) filed on May 6, 2009. The Applicant did not characterize, either explicitly or implicitly, the Volodin et al. reference as "prior art" in that IDS or elsewhere during the prosecution of this application.

Additionally, the Applicant notes that the mere listing of a reference in an information disclosure statement should not be taken as an admission that the reference is prior art against the claims of a patent application (*See MPEP § 2129(IV); see also 37 CFR 1.97(h)*): "The filing of an information disclosure statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in § 1.56(b)." Emphasis added.).

¹ See final Office action at p. 3: "Claims...are rejected under 35 U.S.C. 102(e) as being anticipated by Volodin et al. (Holographic Volume Bragg Gratings Stabilize Laser diode Performance, November 2003, provided as admitted prior art by applicant, which is hereby referred as 'APA')."

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Serial No. : 10/597,300
Filed : March 29, 2007
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Conclusion

In view of the above amendments to the claims, all claims are allowed and therefore a formal notice of allowance is respectfully requested.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 7/28/10

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